



Appeal Decision

Site visit made on 11 July 2017

by **G J Fort BA PGDip LLM MCD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 August 2017

Appeal Ref: APP/X4725/W/17/3173713

Prince of Wales WMC, Fernhill, Ferrybridge Road, Pontefract WF8 2PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Prince of Wales WMC against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 15/00869/OUT, dated 27 March 2015, was refused by notice dated 24 February 2017.
 - The development proposed is residential development with access from Manor Park Avenue.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Prince of Wales WMC against City of Wakefield Metropolitan District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application that led to this appeal was in outline with only the access arrangements for detailed consideration. However, the appellant has indicated that they would be willing for the scheme to be assessed as an outline application with all matters reserved. The submitted plan (Drawing No. 708/05-dated September 2016) in this regard shows only the access point from Manor Avenue and not the vehicular route within the site. As a consequence, I consider that this plan does not include sufficient detail to assess this matter, but that it would fulfil the requirements of paragraph 5(3) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the Development Management Procedure) for consideration of this aspect of the appeal scheme as a reserved matter. Accordingly, I have treated the appeal on the basis of an application for outline planning permission with all matters reserved, and consider, due to the scope of the material submitted in support of the application that no parties would be prejudiced by my assessment of the appeal on this basis.
4. I have been supplied with two application forms in relation to the proposed development. The first application form, dated 5 March 2015, gave the description of development as "Erection of 14 No. dwellings with access from Manor Park Avenue". It is clear from the Officer Report and the Decision Notice

that the Council's decision was based on the details of the application dated 27 March 2017, and I have accordingly considered the appeal on this basis.

Main Issue

5. I consider the main issue to be whether the proposed development would be likely to increase the risk of flooding in the area, including whether it would provide adequate drainage.

Reasons

Site, surroundings and proposed development

6. The appeal site comprises an undulating area of open space of an irregular shape to the rear and side of the Prince of Wales Working Men's Club, a white-rendered hipped roof building with large flat-roofed extensions to the front, side and rear. Bounded on one side by Ferrybridge Road, the appeal site is surrounded, to a considerable degree by residential gardens and other development and is adjacent to the railway line to its south which is, however, screened by a belt of mature trees.
7. The appeal scheme would see the residential development of the site with access taken from Manor Park Lane on its eastern boundary.

Flood Risk

8. The National Planning Policy Framework (the Framework) establishes¹ that when determining planning applications, decision-takers should ensure flood risk is not increased elsewhere. Taken together, Policies D24 and D25 of the Wakefield Local Development Framework: Development Policies (adopted December 2009) (the Development Policies) establish the local approach to drainage and flood risk. Amongst other matters, these policies seek to ensure that developments do not give rise to the risk of flooding elsewhere, and that surface water from new developments is managed using sustainable drainage techniques unless it can be demonstrated that they are not technically feasible.
9. I note from evidence submitted by the appellant and the comments of the Lead Local Flood Risk Authority (LLFRA) that the site is within Flood Zone 1. I am mindful that both the Framework and Policy DM24 of the Development Policies establish that in such areas a Flood Risk Assessment is only required for proposals of 1 hectare or greater. Nevertheless I am aware of mapping produced in the appellant's Flood Risk Assessment and Surface Water Drainage Strategy² (the Strategy), which shows that the appeal site is adjacent to an area at risk of surface water flooding due to overland runoff on the Environment Agency's indicative Flood Maps for Surface Water, and as a consequence I am cognisant of Policy D25's requirements in regard to drainage of surface water.
10. In this respect the appellant's submitted Strategy concludes that its proposed indicative sustainable drainage system scheme would not lead to an increase in off-site surface water run-off. However, I am cognisant that assumed infiltration rates were used as a basis for this Strategy. Further details requested by the LLFRA established that the actual infiltration rates at the appeal site were "significantly worse" than the assumed rates that informed the

¹ At paragraph 103

² Dated May 2016

Strategy rendering the use of soakaways unfeasible³, and that Yorkshire Water would not agree to its connection to the existing surface water sewerage system as an alternative⁴. Whilst I note the appellant's comment that other surface water drainage solutions could be progressed, the feasibility of these has not been established. Furthermore, I am mindful that the underlying strata at the site could cause infiltrated water to flow sideways towards neighbouring land. Consequently, I consider the Strategy does not conclusively establish that the proposed development would not lead to increased flood risk elsewhere. In this regard the proposed development would conflict with the clear expectations of the Framework.

11. I am cognisant that the appellant does not consider the proposed development to constitute "major development" for the purposes of the Development Management Procedure, and that the LLFA did not need to be consulted at this stage as per Schedule 4 of that Order. However, the planning application that led to this appeal was originally submitted in respect of 14 dwellings, which would constitute major development for the purposes of the Development Management Procedure, and the LLFA were consulted on this basis. Whilst the revised application amended the description of development to omit references to the number of dwellings proposed on the site, and did not include the previously submitted indicative layouts, it nevertheless related to an area which formerly submitted material demonstrated had the capacity to accept development of 10 or more dwellings. Moreover, by that stage it is clear that the LLFA had already had a detailed input in regard to the scheme. Both the LLFA's comments and the material submitted by the appellant in response to these have been drawn to my attention and I consider them to be matters material to the determination of this appeal.
12. I am also mindful of the outline nature of the proposed development, and as a consequence the appellant considers that a drainage strategy for the site should form part of the approval of, or conditions attached to, the reserved matters relating to access and layout. I have also had regard to comments that a smaller number of houses on the site could facilitate alternative drainage arrangements. However, due to the inconclusive nature of the Strategy's findings in respect of the efficacy of the proposed soakaways, and the lack of substantive evidence demonstrating that other technical solutions may be feasible it has not been established on an in-principle basis that residential development of the site would not lead to an increased risk of flooding elsewhere. Consequently, and whilst mindful of the costs involved in further site investigations, and that purchasers of the site may promote an alternative layout to that promoted by its current owners, the outline nature of the proposed development has not weighed in favour of its approval to any great degree.
13. Taken together these considerations lead me to the view that it has not been demonstrated that the proposed development would provide adequate drainage, and as a consequence that flood risk in the area would be likely to increase. For these reasons the proposed development would conflict with Policies DM24 and DM25 of the Development Policies, and the Framework, which taken together, and amongst other matters, seek to ensure that new development should not give rise to the risk of flooding elsewhere.

³ E-mail from BDUKL@aol.com dated 26 July 2016

⁴ E mail from BDUKL@aol.com dated 8 September 2016

14. In arriving at this view, I am mindful of the two appeal decisions⁵ referred to me by the appellant. However, one of those decisions related to a scheme to which there were no outstanding statutory objections in relation to drainage matters; and in the other, the Council concurred at a late stage that drainage matters could be handled by a condition. These matters clearly differentiate the current case from those other schemes; and furthermore, each appeal is required to be assessed on its own planning merits. As a consequence, neither of these previous decisions weighs in favour of the proposed development to any material degree.

Other Matters

15. I note that the Prince of Wales Working Men's Club is a community facility, and I have taken into account the letter submitted by the appellant demonstrating its current financial difficulties. Development of the appeal site could enhance the economic viability of the Working Men's Club. Moreover, Pontefract is a Principal Town for the purposes of the development plan and is expected to accommodate 10% of the district's housing requirements. The appeal site is also in an accessible location close to public and other transport routes, and not far from services available in the town centre. These matters, taken together, attract moderate weight in favour of the proposed development. However, in the overall planning balance these matters would be clearly and demonstrably outweighed by the scheme's harmful flood risk effects, and as a result do not alter my conclusions in respect of the main issue given above.

Conclusion

16. The appeal scheme would not be in accordance with the development plan insofar as the policies that have been drawn to my attention are concerned. As no material considerations have been advanced of sufficient weight to justify a departure from the development plan in this instance, I conclude, for the reasons given above, and taking into account all other matters raised, that the appeal should be dismissed.

G J Fort

INSPECTOR

⁵ APP/D2510/W/16/3153153 and APP/L3245/W/15/3133616